

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7446 OF 2007

M/s. Tasty Bite Eatables Ltd. ..Petitioner

Vs.

K.D. Mulla and ors. ..Respondents

Mrs. M.H. Doshi for petitioner.
Mr. Suresh Kumar for respondent nos.1 and 2.
Mr. Ambar Joshi for respondent no.3.

CORAM: B.H. MARLAPALLE, J.

Date : December 18, 2007.

P.C.:

1. Heard Mrs. Doshi the learned counsel for the petitioner-company. It appears that on the representation of a Trade Union representing the contract labour, a squad of officers under the Provident Fund Commissionerate at Pune visited the factory premises of the petitioner-company and noted that contract labour through eight different contractors were being employed and provident fund contributions were not paid or deducted and the contract labour were not covered under the P.F. Act.

A show cause notice was issued on 9/1/2007 under Section 7-A of the P.F. Act and consequently the order dated 30/5/2007 has been passed for the recovery of total amount of Rs.1,09,33,763/-.

2. On receipt of this order dated 30/5/2007, the petitioner - company filed a review application under Section 7-B of the P.F. Act and the review application came to be dismissed by the order dated 12/9/2007. Hence this petition.

3. Mrs. Doshi the learned counsel for the petitioner - company referred to the scheme of Sub-section 5 of Section 7-B and submitted that no appeal shall lie against the order rejecting the application for review and, therefore, this petition has been filed challenging the order dated 12/9/2007.

4. On rejection of the review application filed under Section 7-B, obviously the order under review passed under Section 7-A would stand confirmed and the said original order is an appealable order under Section 7-I of the P.F. Act. When a statutory remedy

of an appeal is available to the petitioner, a writ petition is not be entertained by this court and though this petition is claimed to have been filed under Article 226 of Constitution, having regards to the prayers made in the petition I have treated the same as a petition under Article 227 of Constitution. Mrs. Doshi also pointed out that on 20/11/2007 this court had directed the respondents not to take any coercive steps against the petitioner and that order was continued on 4/12/2007.

5. Hence the petition is disposed as not maintainable and with liberty to the petitioner - company to file an appeal under Section 7-I of the Act and the protection granted to the petitioner by the order dated 20/11/2007 shall be continued for another three weeks from today.

(B.H. Marlapalle, J.)